

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

AUTO-OWNERS INSURANCE COMPANY,)	
)	
Plaintiff,)	Case No: 1:19-CV-00066-SNLJ
)	
v.)	
)	
BLAIR LEASING, LLC,)	
)	
Defendant.)	
_____ /)	
)	
BLAIR LEASING, LLC,)	
)	
Counter-Plaintiff,)	
)	
v.)	
)	
AUTO-OWNERS INSURANCE COMPANY,)	
)	
Counter-Defendant.)	
_____ /)	

**DEFENDANT/COUNTER-PLAINTIFF’S MOTION FOR LEAVE
TO FILE A PARTIAL MOTION FOR SUMMARY JUDGMENT
AND MEMORANDUM IN SUPPORT OUT OF TIME**

COMES NOW Defendant/Counter-Plaintiff Blair Leasing, LLC (“Blair Leasing”) and, pursuant to Fed. R. Civ. P. 6(b), submits this Motion for Leave to File a Partial Motion for Summary Judgment and Memorandum in Support Out of Time. In support, Blair Leasing states:

On June 11, 2020, this Court ordered all discovery be completed by June 23, 2020, and all dispositive motions be filed by July 7, 2020. [Doc. 33]. On July 1, 2020, following an Unopposed Motion filed by Blair Leasing [Doc. 34], this Court extended the discovery deadline to August 3, 2020, for the narrow purpose of permitting Blair Leasing to complete the depositions of Auto-Owners’ corporate representative and claim representative and to obtain certain supplemental

discovery from Auto-Owners. [Doc. 35]. On July 23, 2020, this August 3, 2020 deadline was extended to September 30, 2020 [Doc. 48] following a Joint Motion of the Parties [Doc. 47].

On August 26, 2020, Blair Leasing deposed the Auto-Owners claim representative, Lloyd Hoagenson. Mr. Hoagenson's testimony provides a basis for a Partial Motion for Summary Judgment to be filed by Blair Leasing against Auto-Owners, but because Mr. Hoagenson's deposition testimony was not available at the time dispositive motions were due, Blair Leasing was unable to file such Motion by the July 7, 2020 deadline ordered by this Court. Notably, the transcript from Mr. Hoagenson's deposition is not yet available. Blair Leasing also anticipates, based upon Mr. Hoagenson's testimony, that the deposition testimony of Auto-Owners' corporate representative(s) will further support a Partial Motion for Summary Judgment against Auto-Owners. Auto-Owners' counsel recently represented to the undersigned counsel that he anticipates presenting three corporate representatives for deposition, and the first of these representatives is currently scheduled to be deposed on September 29, 2020¹.

Pursuant to Fed. R. Civ. P. 6(b)(1), a court may, for good cause, extend a deadline after the deadline has expired "if the party failed to act because of excusable neglect." Additionally, pursuant to Fed. R. Civ. P. 56, a motion for summary judgment may be filed "at any time until 30 days after the close of all discovery" unless a different time is established by the court. In the instant matter, good cause exists to permit Blair Leasing to file a Partial Motion for Summary Judgment out of time. As outlined in the above-mentioned motions for extensions of time [Docs. 34 & 47], the delays in completing Mr. Hoagenson's and the corporate representative(s) depositions were primarily caused by the COVID-19 pandemic and the complications said pandemic presented. The undersigned counsel has consistently pushed for timely completion of

¹ The parties are currently attempting to schedule the other corporate representative depositions by agreement in early October 2020.

these depositions and did not sit idly. Additionally, the deadline to complete discovery remains open for a limited purpose, and not all discovery has been completed to date. Further, and perhaps most importantly, Blair Leasing lacked a basis to file a Partial Motion for Summary Judgment at the time of the original July 7, 2020 deadline, as it was Mr. Hoagenson's testimony that provided a confirmed basis for the requested Motion. Because the deposition of Mr. Hoagenson was only recently completed, and because the depositions of corporate representatives remain to be completed, good cause exists to grant Blair Leasing leave to file a Partial Motion for Summary Judgment against Auto-Owners. The undersigned counsel has conferred with counsel for Auto-Owners regarding the instant Motion, and counsel for Auto-Owners has not yet confirmed whether Auto-Owners objects to this Motion.

WHEREFORE, Defendant/Counter Plaintiff Blair Leasing, LLC respectfully requests this Court grant the instant Motion for Leave to File a Partial Motion for Summary Judgment and Memorandum in Support Out of Time and permit Blair Leasing to file the same by October 30, 2020.²

Respectfully submitted,

/s/ J. Drew Houghton

J. DREW HOUGHTON, MBN 18080 OK

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² Pursuant to an Order of this Court [Doc. 52], October 30, 2020 is also the deadline for Blair Leasing to respond to Auto-Owners' pending Motion for Summary Judgment [Doc. 44].

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of September 2020, a true and correct copy of the foregoing was served via CM/ECF upon:

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/s/ J. Drew Houghton

J. Drew Houghton